



South Carolina  
Department of Education

**School Leadership Executive Institute:  
Principal Induction Program  
School Law for Administrators  
School Law and Ethics  
2015**

OFFICE OF GENERAL COUNSEL  
S.C. DEPARTMENT OF EDUCATION

# Residency Requirements

## General Rule

- A student is entitled to attend school in a district if the student lives with a parent or legal guardian who resides in the district.
  - no state rules for proof of residency
  - definition of parent
    - AG's Opinion—either parent
- Student owned property exception



# S.C. Code Ann. § 59-63-31 Exceptions

- Additional Qualifications
  - residing with a person who has custody (non-parent/guardian)
  - residing with a foster parent
  - residing with an adult because of
    - death, illness, or incarceration of parent
    - relinquishment by parent of control
    - abuse or neglect by parent
    - parent physically or mentally cannot care for child
    - homeless parent
    - Military children
      - Parent called to active duty or deployed for more than 60 days



# Enrolling Illegal Aliens

- May not deny enrollment to children because of their immigration status
  - right to attend school
- May require proof of residency
  - How??
  - Need to be flexible
- Must have immunization records
- Must have proof of age for kindergarten and first grade



# Age of Attendance

- Age of attendance
  - kindergarten: 5 on or before Sept. 1
  - first grade: 6 on or before Sept. 1
- Waiver provision
  - local decision
  - no state funds provided if waiver is given
- Exceptions



# Admission Requirements

- Birth certificate requirement
  - kindergarten and first grade only
    - Local policy may require birth certificate for other grades as well
  - birth certificate or other documentation to verify birth date, as allowed by local board of trustees
- Immunization Certificate,  
S.C. Code Ann. § 44-29-180
  - medical and religious exceptions
  - one-time 30-day special exemption may be issued by principal



# Social Security Numbers

- Schools cannot require parents to give a social security number as a condition for attendance.
- If parent does not want to provide number, assign a different number to the student.
- If school asks for the number, must tell parent that it is not required and state for what purpose the number will be used.



# School Records

- Access to school records by noncustodial parent,  
S.C. Code Ann. § 63-5-30
  - equal access to all educational records, unless prohibited by a court order





# School Records

- Federal Educational Rights and Privacy Act (FERPA)
  - allows noncustodial parents access
  - requires parental consent for release of records in most cases
  - directory information can be given out if schools give parents notice that the information may be released
    - names, addresses, phone numbers, photos
  - military recruiters can receive information unless parents opt out



# FERPA

- When a student turns 18
  - The rights of the parents transfer to the student
  - If consent was required before, must get student's consent
- Parent's "rights"
  - If the parent claims the student on his or her tax return as a dependent, the school district may allow the parent access to the records



# Disciplinary Records

- Regulation 43-273 requires schools to transfer disciplinary records to public and private schools.



# Matriculation Fees

- S.C. Code Ann. § 59-19-90(8) states:
  - School districts may charge and collect matriculation and incidental fees from students.
    - Board policies must take into account the students' ability to pay and must hold fee to a reasonable amount.
    - Fees may not be charged to students eligible for free lunch and must be reduced pro rata for students eligible for reduced lunch prices.



# Reporting of Child Abuse

- Child abuse reporting,  
S.C. Code Ann. § 63-7-310
  - duty to report suspected child abuse
  - report to local law enforcement or DSS
  - “reason to believe”
- The person suspecting the abuse must report—  
cannot delegate this responsibility
- Immunity for reporting
  - exception, a misdemeanor to *knowingly* make a false report, S.C. Code Ann. § 63-7-390



# Reporting of Child Abuse

- Name of reporter is confidential
  - Name of reporter can be given to law enforcement if the report is to DSS but law enforcement must keep name confidential
- Even if called to testify, the fact that you reported cannot be released



## Discipline of Regular Education Students

- Suspension of students
  - principal has authority to suspend up to 10 days (not last 10 days of school if it jeopardizes credit)
  - must notify, in writing, parents/guardian of reason for suspension and a time and place for a conference (within 3 days)
  - parent may appeal decision to board or designee
  - 30 days a year maximum
  - *Floyd v. Horry County School District*, 351 S.C. 233 (2002)—parent can appeal the suspension to see if the *procedures* were followed.

## Discipline of Regular Education Students

- Expulsion, S.C. Code Ann. § 59-63-240
  - notify parents of right to a hearing
  - right to appeal to Board (if board did not hear initial case)
  - right to appeal to court
  - student may reapply following year
- Transfer to Alternative School
  - No appeal rights
- Gun Free Schools Act





# Truancy

- Students who have 3 consecutive or 5 total unlawful absences must receive an intervention plan
  - Regulation 43-274 clearly defines lawful and unlawful absences and has a clear procedure to follow for truant students.



# Corporal Punishment

- S.C. Code Ann. § 59-63-260 states, “The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.”



# Crime Reporting

- School official required to report crimes, S.C. Code Ann. § 59-24-60
  - school administrators must contact law enforcement immediately upon notice that a person is engaging or has engaged in an activity that may result in injury or serious threat of injury
- Attorney General's opinion states that you have no discretion in deciding to report crimes.



# Crime Reporting

- Failure to report crimes,  
S.C. Code Ann. § 59-63-335
  - failure to report pursuant to S.C. Code Ann. § 59-24-60, could subject the administrator and district to liability to pay attorney's fees and costs associated with an action to compel compliance with the law



# Threats

- Threatening principals, teachers, etc., S.C. Code Ann. § 16-3-1040
  - unlawful to threaten public officials
  - may be done through writing, verbal, e-mail, etc.
  - penalty: not more than 5 years or \$5,000



# Search and Seizure

- Search and Seizure
- Standard: Reasonable Suspicion
  - State Law (S.C. Code Ann. § 59-63-1110 to 1160)
  - Constitutional Law (N.J. v. T.L.O)
  - School Resource Officers (SRO's)
    - Split decisions nation-wide
    - Leaning towards reasonable suspicion if assigned to school full-time



# Search and Seizure

- Police Involvement
  - raises the bar
  - must have probable cause to search



# Types of Searches

- Locker
  - Legitimate expectation of privacy in lockers is so low that searches may be based on minimal suspicion.
- Purses and book bags
  - Greater expectation of privacy in personal property than lockers
  - Reasonable suspicion required for search
- Canine searches
  - Using dogs to sniff objects does not constitute a search; however, when sniffing a person, it is considered a search
- Strip searches
  - Strip searches are **not** allowed under South Carolina law.





# Sexual Battery

- Sexual Battery with a Student, S.C. Code § 16-3-755
  - Makes it unlawful for people affiliated with a public or private school to have sexual relations with a student, regardless of the age of the student
  - 16 or 17 year old student—felony
  - 18 or older misdemeanor or felony depending on whether the actor has supervisory authority over the student



# Equal Access to Interscholastic Activities Act

- Students enrolled in the Governor's Schools, home schools, and charter schools
  - May participate in interscholastic activities
    - Student resides within the attendance area of the school for which the students participate
    - Governor's schools—attendance areas of where school is located



# 2015 Legislative Action

- Act 21 – School Make Up Days @  
[http://www.scstatehouse.gov/sess121\\_2015-2016/bills/3890.htm](http://www.scstatehouse.gov/sess121_2015-2016/bills/3890.htm)
- Local school board may waive up to three days for bad weather, etc.; however, the district must first make-up three days from days placed in its calendar.



- Act 24 - amendment to Section 59-39-160

Interscholastic Activities to include:

- (b) a student's ineligibility to participate in interscholastic activities is due to a long-term absence as a result of a medical condition, but the student has been medically cleared to participate by his health care practitioner; or
- (c) any reasonable circumstance as determined by the State Board of Education.



- Act 52 - James B. Edwards Civics Education Initiative
- Section 59-29-240. Civics test is the one hundred questions that officers of the US Citizenship & Immigration Services use in order that the applicants can demonstrate a knowledge & understanding of the fundamentals of US history and the principles & form of US government, as required by 8 U.S.C. 1423.



# Changes in Standards

- In 2014 the General Assembly required the state to adopt new ELA and Math standards to be implemented by the 2015-16 school year. Both standards have been approved and implementation for the start of the school year has begun.



# New Assessments

- One word: quagmire
- WorkKeys will continue to be given to all 11<sup>th</sup> graders
- A new RFP process for a new statewide assessment has begun.



# Exit Exam

- The exit exam is no longer a graduation requirement
- Former students who did not get a diploma solely for failure to pass the exit exam may petition the local school district for a diploma





# Ethics Issues

- S.C. Ethics Act
- Code of Ethics
- Student—teacher/administrator relationships



# State Ethics Act

S.C. Code Ann. § 8-13-700, *et seq.*

- South Carolina has an ethics act that applies to school administrators.
  - Under the Act, school administrators are considered public employees, thus subject to the requirements of the Act.



# Types of Activities Covered

- Acceptance of meals
- Acceptance of gifts
- Acceptance of honorariums
- Consulting opportunities
- Contracts of family members
- Acceptance of future employment



# Common Sense

- Much of what is in the Ethics Act is common sense.
- Sometimes we use the “TV rule” as a test.
  - If it wouldn’t look good on the 7:00 news then don’t do it.



# Penalties for non-compliance

- Ethics Commission can issue warnings or reprimands.
- The “value” received by the official is recoverable by the State.
- Criminal prosecution.



# Obtaining an Economic Interest

- Can't use employment to obtain an economic interest for yourself, a member of immediate family, an individual with whom he is associated, or a business with which he is associated.



# Accepting Things of Value

- Public employee may not receive “anything of value” in return for being:
  - Influenced in the discharge of his official responsibilities.



# Definition

- Anything of value—very broad.
- Anything of value does not mean
  - promotional items not exceeding \$10 in value
  - personalized plaque or trophy that doesn't exceed \$150
  - educational material of nominal value
  - honorary degrees
  - promotional or marketing materials offered to general public





# Incidental Use of School Property

- Incidental use of public property is not a violation of the Ethics Act.
- Incidental use would include:
  - use of the phone for personal calls
  - use of the computer to write a letter or to send a non-work related email
  - look at the time the activity occurs and if there is a cost to the school



# Rules of Conduct for Public Employees

- The Ethics Commission issued Rules of Conduct for Public Employees.
- When in doubt, ask for an opinion.



# Avoidance of Educator-Student Problems

- Do not remain alone with a student in the classroom outside of the regular school day without informing the principal.
- Do not remain alone with a student behind a closed door. Keep the door open.
- Do not meet students outside of school for a meal, a soft drink or other social engagements.



# Avoidance of Educator-Student Problems

- Do not counsel students in nonacademic matters.
  - If an educator believes a student is in some type of trouble, the student should be referred to the “student at risk” team
- Do not transport students in your own vehicle or allow students to have access to your vehicle.
- Do not engage students in conversations regarding their romantic or sexual activities.
- Do not entertain students in your home.



## Avoidance of Educator-Student Problems

- Do not make sexual comments, comments about the students' bodies, tell sexual jokes, or share sexually oriented material with students and staff
- Do not touch students and staff in a manner that a reasonable person could interpret as inappropriate.



# Texting and social networking sites

- New pitfalls for educators
  - Do not text students for non-school related things
  - Do not “chat” or go on social networking sites where kids can access your information
  - Be careful about posting pictures on Facebook



# Test Security

- Principal has an ethical and legal obligation to report all test security violations.
- Serious problem in schools
- Make sure your teachers know the proper test procedures
- Make sure your teachers administer proper accommodations under IEPs.



# Questions?

- [www.ed.sc.gov/agency/general-counsel](http://www.ed.sc.gov/agency/general-counsel)
  - A copy of this presentation
  - Link to laws and regulations
  - Link to NCLB Religious Guidelines